

IN THE CHANCERY COURT FOR HAMILTON COUNTY, TENNESSEE

STATE OF TENNESSEE, ex rel, ANNE
B. POPE, in her official capacity as
COMMISSIONER OF THE TENNESSEE
DEPARTMENT OF COMMERCE AND
INSURANCE

VS.

UNITED STATES FIRE INSURANCE
COMPANY; UNITED STATES FIDELITY
AND GUARANTY COMPANY;
EMPLOYERS REINSURANCE
CORPORATION; UTICA MUTUAL
INSURANCE COMPANY; INSURANCE
COMPANY OF NORTH AMERICA; and
SAFECO INSURANCE COMPANY OF
AMERICA, ETC.

NO. 02-0079

PART 1

RECEIVED
MAR 27 2002

SELF INSURANCE LINES DIV.
DEPT. OF COMMERCE & INSURANCE

FILED
02 MAR 22 PM 2:29
S. LEE AKERS, CLERK

FINAL ORDER

This cause came on to be heard on March 18, 2002 upon the Motion for Interlocutory Appeal filed by Thomas L. Wyatt, attorney for the Intervening Petitioners. The court was of the opinion that the essence of the Motion, i. e. appellate review of the court's decision regarding the nature and extent of the bonds and the liabilities of the Respondent insurance companies posting said bonds, was good and proper because the issue presented apparently has not been decided by the Tennessee Appellate Courts. The decision of this issue is very important for workers, employers, insurance companies, the Department of Commerce and Insurance and the Department of Labor and Workforce Development. An appellate decision on this issue will

serve the policy of uniform administration of justice. However, because an interlocutory appeal is discretionary with the appellate courts, the court determines that another method should be used. The court understands that the initial legal issue in this case is the determination of the amount of money owed by the Respondent insurance companies, which is based in large measure on statutory construction of T.C.A. §50-6-405. This determination affects the amount of money available to claimants against the proceeds from each bond. The amount of money available from each bond will affect the nature and extent of the recovery for each claimant. The other part of this case is a determination of the value of each individual claim and such is not dependent on the legal issue of the Respondent's liability (but may affect the amount of recovery). Because there are so many claims and some of the claimants are not yet at MMI, it may be months before the process of determining the value of each claim and the allocation of the bond monies among the claimants is determined. If an appeal of the initial issue is taken now, there is a good possibility that appellate review of the fundamental legal issue can be had while this court proceeds with the remaining portion of this case. This appellate decision, during the administrative process, will result in a more expedient resolution of the entire case.

Therefore, it is **ORDERED**:

1. That the Motion for Interlocutory Appeal filed by the Intervening Petitioners is denied because an expedited appeal of right is preferable to a discretionary appeal;
2. That this court's order filed herein on February 28, 2002 shall be deemed a Final Judgment under Rule 54.02 of the Tennessee Rules of Civil Procedure on the issue of the bond amount liability issue because there is no just reason for delay in the entry of

a final order on the bond issue and the need for an appellate decision on this issue is crucial and timing is most important; and

3. That the Clerk and Master shall treat the Order filed herein on February 28, 2002 at 9:20 a.m. as a Final Order as of the date this Order is filed and the time for filing a Notice of Appeal on the issue of the Respondents' liability for and/or amount of their bond shall begin with the entry of this Order.

ENTER:

W. Frank Brown, III
Chancellor - Part 1

CERTIFICATE OF SERVICE

The undersigned certifies a true and correct copy of this Order has been placed in the United States Mail addressed to the following:

This 22 day of March, 2002.

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